

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendants, City of Garrett and Duane Days, by counsel and pursuant to 28 U.S.C. §§1441(a) and 1446, hereby remove to this Court the state court action described herein. The grounds for removal are as follows:

1. On January 25, 2018 Plaintiff filed a Complaint and Jury Demand in DeKalb County Superior Court, under Cause Number 17D02-1801-CT-000004. A copy of the Complaint and Jury Demand is attached hereto as Exhibit A.

2. A copy of the Complaint and Jury Demand, along with a summons directed to the City of Garrett and Duane Days, was received on February 12, 2018.

3. On February 28, 2018, the City of Garrett and Duane Days, filed their Answer to Complaint and Jury Demand (Exhibit B) and Appearance (Exhibit C) in DeKalb County Superior Court, under Cause Number 17D02-1801-CT-000004.

4. The Plaintiff's Complaint and Jury Demand allege violations by the City of Garrett and Duane Days under Section 504 of the Rehabilitation Act, Title II of the American Disabilities Act, and the Fourth Amendment to the United States Constitution. The claim under

the Fourth Amendment can be interpreted that Plaintiff is pursuing this claim under 42 U.S.C. §1983.

5. This Notice of Removal has been timely filed pursuant to 28 U.S.C. §1446(b), and a copy of all process and pleadings served upon Defendants in the state court action are attached hereto.

6. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §1331, and is one which may be removed to this Court by Defendants under 28 U.S.C. §1441.

WHEREFORE, Defendants hereby request this action removed to the United States District Court for the Southern District of Indiana.

Respectfully submitted,

/s/ David A. Izzo
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CERTIFICATE OF SERVICE

I hereby certify the foregoing NOTICE OF REMOVAL was electronically filed on this 28th day of February, 2018 through the Court's CM/ECF system, and the following parties were served via CM/ECF system and/or e-mail on the same date:

David W. Frank
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I further certify that the foregoing document was served on the 28th day of February, 2018 upon Defendants Antonietta Chisholm and Mino II Diner Inc., via first-class U.S. mail, postage prepaid, addressed as follows:

Antonietta Chisholm
Mino II Diner, Inc.
1002 N. Randolph Street
Garrett, IN 46738

/s/ David A. Izzo
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